

Attorney Docket Number: FSP0291
Application Number: 09/759,935

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REMARKS

The Applicant thanks the Examiner for examining this application. This is a response to the Office Action mailed on 15 June 2011. Claims 46-53 remain pending.

35 U.S.C. §103(a)

Claims 46-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over Addington, (U.S. Pat # 7,246,366), in view of Komatsu, (U.S. PG-PUB 2003/0135862).

As a threshold matter, various features of the claims are not disclosed explicitly by either reference. For example, neither references discloses associating a unique group ID with each physical path from an application server to each terminal group. In Addington neither a modulator group nor a service level group defines a unique physical path between an application server and a terminal group. In Addington a particular terminal group can access services through multiple service level groups, and a particular modulator group can supply multiple terminal groups, and thus an application server cannot assign a unique modulator group id to each physical path to a terminal group. Note also, in Addington it is a service level group ID, not a modulator group ID, that is communicated to the terminals. In Komatsu, an ID (VPI/VCI) is assigned to a virtual communication path over which a set top communicates. The VPI/VCI is not a modulator group ID – it is a virtual communication path assigned to each set top in the system.

A second example of a feature not disclosed by either reference is a data formatter periodically sending a modulator group ID unique to a terminal group only to terminals of the terminal group. Addington teaches that a full table including multiple group IDs (for the configured service level groups) is sent to every terminal group. As explained above, the service level group ID isn't, and can't be, a modulator group ID unique to a physical path from the application server to a particular terminal group. In any case, Addington communicates multiple service level IDs to every terminal group. As for Komatsu, there is no description at all of communicating a modulator group ID to the set tops. Komatsu teaches that the set top communicates with the distributor on an assigned VPI/VCI, which is not a modulator group ID and which is not provided to a plurality of

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set tops in a terminal group. Komatsu describes grouping set tops that are receiving the same program (Par 53), but again there's no disclosure of a data formatter periodically sending a particular modulator group ID only to terminals associated with the modulator group.

A third example of a feature not disclosed by either reference is an application server that receives from a terminal a VOD request that includes a modulator group ID for the terminal group the terminal belongs to. Addington doesn't disclose including a group ID in a VOD request, and neither does Komatsu. Komatsu discloses that the server identifies the VPI/VCI (not a group ID) that a set top communicates over.

Claim 46 does not simply describe a rearrangement of elements in the cited references with each performing the same function it has been known to perform. Claim 46 recites features not disclosed nor obvious from either reference, the new features used in ways that not disclosed nor obvious from the combined references.

As an example of why the non-disclosed claim features aren't obvious in view of Addington and Komatsu, consider that Addington's system would need to be redesigned so that every service level group (the group IDs communicated to the terminals) defined a unique physical path from the application server to a terminal group. This would involve a complete redesign of the network architecture in Addington, which relies on overlapping mappings of modulators between service level groups. Addington would then need to be further redesigned so that the unique service level id associated with a terminal group was sent only to terminals of that group. Currently Addington sends a map of all service group IDs to all terminal groups, and the terminals execute a process to ascertain which service group they belong to. Komatsu doesn't provide sufficient disclosure or direction to render such a radical redesign of Addington obvious. Komatsu doesn't disclose that the terminals would include a service level group ID in a VOD request to the application server, or any reason why this would be done. Komatsu already has a mechanism to determine the communication path from the distributor to the terminals, which isn't group ID-based (VPI/VCI unique to each terminal). There would be little if any obvious benefit to combining these two divergent approaches into a single

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system, and the modifications necessary to reach the present claims from such a combination aren't obvious from a combined reading of the references.

Claims 47-49 are dependent on claim 46 and likewise patentable over the cited references. Claim 50 comprises similar features and it likewise patentable, as are the dependent claims 51-53.

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Reservation Of Rights

The Applicant believes every assertion by the Office Action has been addressed, however in the interest of clarity and brevity, applicant may not have asserted every available argument for each assertion made in the Office Action. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. §1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP §2144.03. Applicant reserves all rights to pursue any canceled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP §821.04.

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Conclusion

For at least the reasons provided, all of the claims should be allowed. If an interview would help further the prosecution, the Examiner is urged to contact the Applicant at the numbers provided below.

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